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<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF MISSOURI 3 EASTERN DIVISION 4 U.S. BANK, National Association,) 5 Plaintiff,) 6 vs.) Case No. 7) 4:21-cv-00120 8 MICHAEL QUALIZZA, NEIL D. FREEMAN,) 9 TIMOTHY DIXON,) 10 Defendants and Counterclaimants,) 11 and) 12 DFQ MANAGEMENT LLC, and) 13 1501 WASHINGTON ST. LOUIS, LLC,) 14 Counterclaimants,) 15 vs.) 16 U.S. BANCORP COMMUNITY) 17 DEVELOPMENT CORPORATION, and) 18 U.S. BANK, NATIONAL ASSOCIATION,) 19 Counterclaim Defendants.) 20 VIDEO-RECORDED DEPOSITION OF ZACHARY M. BOYERS, 21 produced, sworn and examined on September 19, 2022, 22 between the hours of nine o'clock in the forenoon 23 and four o'clock in the afternoon of that day, at 24 the offices of Thompson Coburn LLP, 505 North 7th 25 Street, Suite 3500, St. Louis, Missouri 63101, before William L. DeVries, a Certified Court Reporter (MO), Registered Diplomat Reporter, and Certified Realtime Reporter, in a certain cause now pending in the United States District Court, Eastern District of Missouri, Eastern Division, between U.S. BANK, National Association, Plaintiff, vs. MICHAEL QUALIZZA, NEIL D. FREEMAN, TIMOTHY DIXON, Defendants and Counterclaimants; and DFQ MANAGEMENT LLC, and 1501 WASHINGTON ST. LOUIS, LLC, Counterclaimants, vs. U.S. BANCORP COMMUNITY DEVELOPMENT CORPORATION, and U.S. BANK, NATIONAL ASSOCIATION, Counterclaim Defendants; on behalf of Michael Qualizza and the Corporate Counterclaimants.</p>	<p>1 IT IS HEREBY STIPULATED AND AGREED by 2 and between counsel that this deposition may be 3 taken in shorthand by William L. DeVries, RDR/CRR, a 4 Certified Court Reporter and Certified Shorthand 5 Reporter, and afterwards transcribed into 6 typewriting; and the signature of the witness is 7 expressly reserved. 8 * * * * * 9 ZACHARY M. BOYERS, 10 of lawful age, produced, sworn and examined on 11 behalf of Michael Qualizza and the Corporate 12 Counterclaimants, deposes and says: 13 (Starting time of the deposition: 9:08 a.m.) 14 VIDEOGRAPHER: We are on the record. 15 Today's date is September 19th, 2022, and the time 16 is 9:08 a.m. This is the video-recorded deposition 17 of Zachary Boyers in the matter of Michael Qualizza, 18 et al., versus U.S. Bancorp Community Development 19 Corporation, et al., Case Number 4:21-cv-00120-NAB, 20 in the United States District Court for the Eastern 21 District of Missouri, Eastern Division. 22 This deposition is being held at 23 Thompson Coburn, One U.S. Bank Plaza, Suite 3500, 24 St. Louis, Missouri 63101. The reporter's name is 25 Bill DeVries. My name is Shaun Steele. I'm a</p>
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<p>1 A P P E A R A N C E S 2 For the Plaintiff and Counterclaim Defendants: 3 Mr. Michael Bartolacci 4 Mr. John Kingston (via Zoom) 5 Thompson Coburn LLP 6 505 North 7th Street, 35th Floor 7 St. Louis, Missouri 63101 8 (314) 552-6000 9 mbartolacci@thompsoncoburn.com 10 jkingston@thompsoncoburn.com 11 12 For the Defendant Michael Qualizza and the 13 Corporate Counterclaimants: 14 Mr. James F. Bennett 15 Mr. Matt D. Ampleman 16 Dowd Bennett LLP 17 7733 Forsyth Blvd., 19th Floor 18 St. Louis, Missouri 63105 19 (314) 889-7300 20 jfbennett@dowdbennett.com 21 mampleman@dowdbennett.com 22 23 For Neil D. Freeman and Timothy Dixon as 24 Defendants and Counterclaimants: 25 Mr. Robert Barnes (via Zoom) Barnes Law, LLP 700 S. Flower Street, Suite 1000 Los Angeles, California 90017 (213) 318-0234 robertbarnes@barneslawllp.com Also present: Mr. Shaun Steele, Videographer Lexitas Legal Mr. Michael Qualizza (via Zoom) Court Reporter: William L. DeVries, RDR/CRR Missouri CCR #566 Lexitas Legal 711 North Eleventh Street St. Louis, Missouri 63101 (314) 644-2191</p>	<p>1 certified legal videographer. We are with Lexitas 2 Legal. 3 Would the attorneys present please 4 introduce themselves and the parties they represent? 5 MR. BARTOLACCI: I'm Mike Bartolacci, 6 and I represent the plaintiffs U.S. -- U.S. Bank, 7 NA, and the counterclaim defendant U.S. Bancorp 8 Community Development Corporation. 9 MR. BENNETT: It's Jim Bennett and Matt 10 Ampleman for Neil Freeman and the two corporate 11 counterclaimants. 12 MR. BARNES: Robert Barnes appearing 13 remotely on behalf of Michael Qualizza. 14 MR. BENNETT: And Tim Dixon also, 15 Robert? 16 MR. BARNES: Yes. 17 VIDEOGRAPHER: Would the court reporter 18 please swear in the witness? 19 COURT REPORTER: Do you swear or affirm 20 that the testimony you are about to give in this 21 proceeding will be the truth, the whole truth, and 22 nothing but the truth? 23 THE WITNESS: Yes, I do. 24 EXAMINATION 25 QUESTIONS BY MR. BENNETT:</p>

<p style="text-align: right;">Page 153</p> <p>1 Mr. Kramer reporting on a November 19 call with</p> <p>2 credit and SAG, right?</p> <p>3 A. At the bottom?</p> <p>4 Q. Yes.</p> <p>5 A. Okay. Sorry. I see it. I haven't</p> <p>6 read it yet.</p> <p>7 Q. Well, does it make sense to you that</p> <p>8 you and Mr. Hansen weren't responding to</p> <p>9 Mr. Kramer's texts because these meetings were going</p> <p>10 on with SAG and credit?</p> <p>11 A. It makes some sense, yes.</p> <p>12 Q. So there was a discussion at their</p> <p>13 request to fund the balance of the loan and the</p> <p>14 60 percent tax credit contribution, which looks to</p> <p>15 be 8.2 million total. And they offered to put up a</p> <p>16 letter of credit. So then it says (quote as read):</p> <p>17 James and Kyle rejected the request.</p> <p>18 Who are James and Kyle?</p> <p>19 A. James Robertson and Kyle Schmidt are</p> <p>20 our credit approvers. Kyle is the senior credit</p> <p>21 officer and James reported to him.</p> <p>22 Q. It says number one (quote as read):</p> <p>23 Funding our money in the current state</p> <p>24 of things does nothing to help USB.</p> <p>25 Right?</p>	<p style="text-align: right;">Page 155</p> <p>1 Asking for this major concession while</p> <p>2 at the same time subpoenaing our</p> <p>3 records causing us to incur</p> <p>4 inconvenience and legal costs does not</p> <p>5 help their own cause.</p> <p>6 Right?</p> <p>7 A. That's what it says.</p> <p>8 Q. If they needed the records for the</p> <p>9 Paric arbitration didn't you want them to win the</p> <p>10 Paric arbitration?</p> <p>11 A. Didn't I want them to win the Paric</p> <p>12 arbitration?</p> <p>13 Q. Wouldn't the bank --</p> <p>14 A. I wanted the project to succeed.</p> <p>15 Q. So what business sense does it make for</p> <p>16 the bank's perspective to get upset if the</p> <p>17 developers are asking for records that would help</p> <p>18 them in their dispute with Paric?</p> <p>19 A. I have to tell you that I don't know</p> <p>20 what the issues were and I don't know why we decided</p> <p>21 not to share those documents. I don't know the</p> <p>22 reasons.</p> <p>23 Q. Okay. So you're getting copied on this</p> <p>24 e-mail, right?</p> <p>25 A. I am.</p>
<p style="text-align: right;">Page 154</p> <p>1 A. It does.</p> <p>2 Q. It would help the developers, right?</p> <p>3 A. It may, yeah.</p> <p>4 Q. Okay. So the things that are missing</p> <p>5 from funding is you haven't bought the tax credits</p> <p>6 or a bridge to them and there's a -- loan proceeds</p> <p>7 that are still available; is that right?</p> <p>8 A. Correct. Yes. Getting it from this</p> <p>9 e-mail, but yes.</p> <p>10 Q. Paric -- there was a resolution that</p> <p>11 hadn't happened yet.</p> <p>12 A. Right.</p> <p>13 Q. And then there was a \$391,000 loan lien</p> <p>14 from a demo contractor?</p> <p>15 A. Correct.</p> <p>16 Q. Right? That named U.S. Bank and CDE as</p> <p>17 parties, right?</p> <p>18 A. Yes.</p> <p>19 Q. What did you know about that situation?</p> <p>20 A. Next to nothing.</p> <p>21 Q. I mean, did you know that it was so</p> <p>22 frivolous that it was immediately dismissed?</p> <p>23 A. No.</p> <p>24 Q. And then it talks about (quote as</p> <p>25 read):</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. Why?</p> <p>2 A. Presumably because of a long-standing</p> <p>3 relationship with the customer, very long-standing,</p> <p>4 and that I should be at least apprised of the</p> <p>5 situation.</p> <p>6 Q. Were you ever asked to help the</p> <p>7 situation by the bank, by anybody at the bank?</p> <p>8 A. No, not that I remember. I mean, I --</p> <p>9 the call that I made in January of 2020 would be one</p> <p>10 where we decided -- my team decided that it would be</p> <p>11 good for me to make a call.</p> <p>12 By the way, I do remember we talked a</p> <p>13 little bit about -- you asked me to bring up</p> <p>14 anything else I remembered. We talked about our</p> <p>15 state new market tax credit deals that we were sort</p> <p>16 of halfway in with them at the time.</p> <p>17 Q. Where were those deals?</p> <p>18 A. I think they were -- they were state</p> <p>19 deals. I think maybe Kentucky and maybe one other</p> <p>20 state, and they were half sort of -- we fund</p> <p>21 qualified equity investments and then later on we --</p> <p>22 we meaning UDF and we sometimes play a role in</p> <p>23 finding the deals for them to fund. And at this</p> <p>24 point in January of 2020 it was -- the relationship</p> <p>25 was pretty messy and so our decision to stay in</p>

39 (Pages 153 to 156)